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INDIANAPOLIS, IN 46204-5137

In re Application of MICHEL et al :
U.S. Application No.: 10/521,478 :
PCT Application No.: PCT/US2003/022295 :
Int. Filing Date: 17 July 2003 :
Priority Date Claimed: 17 July 2002 : DECISION
Attorney Docket No.: 16590-35 :
For: HERBICIDE-RESISTANT PLANTS, AND :
POLYNUCLEOTIDES AND METHODS :
FOR PROVIDING SAME :

This is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 17 September 2007.

BACKGROUND

On 17 July 2003, applicant filed international application PCT/US2003/022295, which claimed priority of an earlier United States application filed 17 July 2002. The thirty-month period for paying the basic national fee in the United States expired on 17 January 2005.

On 17 January 2005, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 23 January 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 28 August 2006, applicant filed an executed declaration.

On 01 March 2007, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916), which indicated that the declaration filed 28 August 2006 is improper.

On 09 March 2007, applicant filed executed declarations.

On 17 August 2007, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the application is abandoned for failure to timely file a proper response to the Notification of Defective Response.

On 17 September 2007, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 17 July 2003, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 17 September 2007.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.



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